

ENTERED

June 26, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

AARON LAMAR	§	CIVIL ACTION No
LIVINGSTON TRUST,	§	4:22-cv-03021
<i>et al</i> ,	§	
Plaintiffs,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
ALBERT M. MCGAIG,	§	
JR., <i>et al</i> ,	§	
Defendants.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff Aaron Lamar Livingston, proceeding *pro se*, brings claims for civil-rights violations against multiple defendants. Dkt 1. Each Defendant has filed a motion to dismiss, with no response by Livingston. Dkts 17, 18 & 19. Pending is a Memorandum and Recommendation by Magistrate Judge Christina A. Bryan. Dkt 26. The Magistrate Judge recommends that each motion be granted because Livingston's claims are frivolous; Livingston's claims for damages are barred by judicial, official, and/or qualified immunity; Livingston cannot state a claim under Section 1983 against private, non-state actors; Livingston's claims are barred by *Heck v Humphrey*, 512 US 477 (1994); and Livingston cannot assert claims under criminal statutes. *Ibid*.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other

portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

No party filed objections. No clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.

Dismissal with prejudice is appropriate. Plaintiff failed to respond to the motions to dismiss or to request leave to amend. Neither did he file objections. This indicates that he has already pleaded his best case.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 26.


The motions by Defendants to dismiss are GRANTED. Dkts 17, 18 & 19.

This civil action will be DISMISSED WITH PREJUDICE.

A final judgment will enter separately.

SO ORDERED.

Signed on June 26, 2023, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge